

REMARKS/ARGUMENTS

Applicant appreciates the Examiner's continued thorough search and examination of the present patent application.

Claims 1 and 2 stand rejected under 35 U.S.C. §102(e) as being unpatentable over Fox et al. ("Fox", U.S. Patent No. 6,560,581). Applicant respectfully traverses this rejection.

As noted in at least one previous response to an Office Action in the present patent application, Applicant's claim 1 defines a solution to a particular problem common to most commerce systems, namely, authentication of transactions. In particular, claim 1 defines a method for enabling a customer and merchant to complete a purchase. The method of claim 1 comprises registering a customer's financial information, receiving information from the merchant pertaining to the purchase, establishing a contact with the customer, and electronically debiting the customer's account and crediting the merchant's account to complete the purchase. Applicant's independent claim 33 includes similar features.

Fox is related to providing a secure electronic transaction that includes the "interchange of documents and instruments in a large, unrestricted audience of participants" (column 2, lines 11-12). Each "computing unit" operated by the participants performs "encryption, decryption, signing and verifying functions" associated with the document interchange (column 3, lines 45-50).

Applicant respectfully submits that elements of claim 1 are missing from the teachings of Fox and, therefore, Fox cannot anticipate applicant's claim 1 under 35 U.S.C. §102(e). In particular, Fox does not teach or suggest applicant's claimed step of "receiving from a merchant information pertaining to [a] purchase" "in response to a customer ordering over a first communication network a good or service the customer desires to purchase," and in response to the customer "supplying identifying information to the merchant pertaining to the customer." Moreover, the Examiner never asserts that Fox teaches such a step. In fact, the Examiner goes to great lengths to describe other elements of applicant's claim 1 that the Examiner asserts are anticipated by Fox, but the Examiner makes no mention of this important limitation.

Additionally, Fox does not teach or suggest applicant's claimed step of "establishing, over the second communication network, a contact with the customer in which the customer is

identified to the transaction center[.]” Instead, Fox teaches a document interchange among the purchaser 302, merchant 304 and the acquirer 306 (column 24, line 31 – column 25, line 60). As taught by Fox, the purchaser 302 creates a “commerce document” that includes a “goods and services order (GSO) and a ... purchase instruction (PI).” The GSO and the PI are digitally signed by the purchaser and encrypted with a symmetric cipher using two different keys. As described in Fox, the PI requires more encryption strength because it contains financial information and “warrants higher privacy.” The GSO, PI and a “cardholder credential 320” are packaged and sent to the merchant. The merchant decrypts only the GSO and verifies the purchaser’s identity via the purchaser’s digital signature on the GSO. The PI is left intact (i.e., encrypted) and is sent by the merchant to the acquirer 306. The acquirer 306 contacts an “issuing bank 308” that issued the credit card used by the purchaser 302, and when the issuing bank 308 notifies the acquirer 306 that sufficient funds are available, the merchant server 314 is notified.

Applicant submits that the above process is patentably distinct from the steps defined in applicant’s claim 1. Contact with the customer over a second communication network in which the customer is identified to the transaction center and wherein the customer is enabled to express intent to complete a purchase is not taught or suggested by Fox. Therefore, Fox does not anticipate applicant’s claim 1, claim 1 is allowable over Fox and reconsideration is respectfully requested.

Claim 2 depends directly from claim 1 and is, therefore, patentable for the same reasons, as well as because of the combination of features of in claim 1 with the features set forth in claim1.

Claims 3-15 and 33 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fox in view of Kight et al. (“Kight,” U.S. Patent No. 5,873,072). Applicant respectfully traverses this rejection.

Applicant submits that Kight does not supply the elements of applicant’s claims 1 and 33 that are missing from the teachings of Fox. Kight is cited for teaching a computerized payment system by which a consumer may instruct a service provider by telephone to pay various bills. In particular, Kight does not teach or suggest applicant’s claimed step of “receiving from a merchant information pertaining to [a] purchase” “in response to a customer ordering over a first communication network a good or service the customer desires to purchase,” and in response to

the customer "supplying identifying information to the merchant pertaining to the customer." Furthermore, Kight does not teach or suggest first and second communication networks, in which a second communication network is used to register "a customer's financial information in [a] transaction center" and for "establishing ... a contact with the customer[.]" Therefore, the combined teachings of Kight and Fox do not teach or suggest all of the elements of applicant's claim 1 and applicant's claim 33.

Claims 3-15 depend directly or indirectly from claim 1, and are, therefore, patentable for the same reasons, as well as because of the combination of features in those claims with the features set forth in the claim(s) from which they depend.

This application is believed to be in condition for allowance, for which action is earnestly solicited.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on October 3, 2005:

James A. Finder
Name of applicant, assignee or
Registered Representative

Signature

October 3, 2005
Date of Signature

JAF:JJF:ck

Respectfully submitted,

James A. Finder
Registration No.: 30,173
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: (212) 382-0700